

EXHIBIT 1

INTRODUCTION

Respondent Stephen E. Benson was a successful candidate for Butte County Superior Court Judge in the November 7, 2000 general election, having qualified for that election by receiving the second highest number of votes in the March 7, 2000 primary election. Respondent Committee to Elect Steve Benson Judge (the “Committee”) was the controlled committee of Respondent Benson during the primary and general elections. Respondent Eugene C. Hancock was the treasurer of Respondent Committee.

This case arose from an audit of Respondent Committee by the Franchise Tax Board (the “FTB”) for the period January 1, 1999 through December 31, 2000. During the audit period, Respondents reported receiving contributions totaling \$173,316 and making expenditures totaling \$174,717.

The Political Reform Act (the “Act”)¹ requires candidates to disclose required information regarding contributions or loans of \$100 or more on campaign statements filed periodically. In this matter, Respondents failed to disclose the receipt of a \$71,000 loan, and the true source of that outstanding loan, on three separate campaign statements. In addition, Respondents failed to timely deposit the \$71,000 loan into the campaign bank account of Respondent Committee.

For the purposes of this stipulation, Respondents’ violations of the Act are stated as follows:

COUNT 1: On or about September 21, 2000, Respondents Stephen E. Benson and Eugene C. Hancock failed to deposit a loan in the amount of \$71,000 made to Respondent Benson to support his election to the Butte County Superior Court into the campaign bank account of Respondent Committee to Elect Steve Benson Judge, in violation of section 85201, subdivision (c) of the Government Code.

COUNT 2: In a pre-election campaign statement filed on or about October 5, 2000, for the reporting period July 1, 2000 through September 30, 2000, Respondents Stephen E. Benson, Committee to Elect Steve Benson Judge, and Eugene C. Hancock failed to disclose a loan in the amount of \$71,000 received from Helmer G. Benson, in violation of sections 84211, subdivision (f), and 84216, subdivision (c) of the Government Code.

COUNT 3: In a pre-election campaign statement filed on or about October 25, 2000,

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

for the reporting period October 1, 2000 through October 21, 2000, Respondents Stephen E. Benson, Committee to Elect Steve Benson Judge, and Eugene C. Hancock failed to disclose the true source of an outstanding loan in the amount of \$71,000, in violation of sections 84211, subdivision (f), and 84216, subdivision (e) of the Government Code.

COUNT 4:

In a semi-annual campaign statement filed on or about January 31, 2001, for the reporting period October 22, 2000 through October 21, 2000, Respondents Stephen E. Benson, Committee to Elect Steve Benson Judge, and Eugene C. Hancock failed to disclose the true source of an outstanding loan in the amount of \$71,000, in violation of section 84211, subdivision (g) of the Government Code.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

Section 82013, subdivision (a) requires candidates and their controlled committees to file semi-annual campaign statements each year no later than July 31, for the period ending June 30, and no later than January 31, for the period ending December 31. In addition, section 84200.5, subdivision (b) requires candidates and their controlled committees to file two pre-election campaign statements before an election in which the candidate appears on the ballot. For elections held on the first Tuesday after the first Monday in November of an even-numbered year, section 84200.7 requires that the first pre-election statement for the period ending September 30 be filed no later than October 5, and that the second pre-election statement for the period ending 17 days before the election be filed no later than 12 days before the election.

Duty to Disclose and Itemize Loans of \$100 or More

Section 82015, subdivision (a) defines a “contribution” as a “payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.” Section 82044 includes loans within the definition of “payment.”

Notwithstanding section 82015, a loan received by a candidate or committee is a contribution unless the loan is received from a commercial lending institution in the ordinary course of business, or it is clear from the surrounding circumstances that it is not made for political purposes. (Section 84216, subd.(a).) Section 84216, as it existed in 2000, provided at subdivision (c) that any loan received by a candidate or committee must be reported on the campaign statement for the reporting period in which the loan is received, as provided by section 84211. The same statute further provided, at subdivision (e), that the loan must also be reported on each campaign statement covering a reporting period in which any part of the loan is

outstanding.

On each campaign statement filed by a candidate or committee, section 84211, subdivision (g),² requires the reporting of the following information about any lender to the candidate or committee if the cumulative amount of loans received from the lender is \$100 or more, and the loans are outstanding during the reporting period covered by the campaign statement: (1) the lender's full name; (2) the lender's street address; (3) the lender's occupation; (4) the name of the lender's employer, or if self-employed, the name of the lender's business; (5) the original date and amount of the loan; (6) the due date and interest rate of the loan; (7) the cumulative payment made at the end of the reporting period; (8) the balance outstanding at the end of the reporting period; and (9) the cumulative amount of contributions received from the lender. Section 82018 defines "cumulative amount" to include the amount of contributions received in a calendar year.

One Bank Account Rule

Section 85201, subdivision (a) requires a candidate to establish one campaign bank account upon filing a statement of intention to seek elective office. Section 85201, subdivision (c) states that all contributions or loans made to a candidate or to a candidate's committee shall be deposited into the campaign bank account. Section 85201, subdivision (d) states that all campaign expenditures shall be made from the account.

Treasurer Liability

Section 81004, subdivision (b), section 84100, and regulation 18427, subdivision (a), require a committee's treasurer to ensure that the committee complies with the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee's treasurer may be held jointly liable, along with the committee, for any reporting violations committed by the committee.

SUMMARY OF THE FACTS

Respondent Benson was a candidate for Butte County Superior Court Judge in the March 7, 2000 primary election and a candidate in the November 7, 2000 general election. After receiving the second highest number of votes in the primary election, Respondent Benson beat his opponent in the general election, 53.2%-46.5%. Respondent Committee was the controlled committee established by Respondent Benson on or about October 8, 1999, to support his candidacy for Butte County Superior Court. Respondent Hancock was the treasurer of Respondent Committee.

This case arose from an audit of Respondent Committee by the FTB for the period January 1, 1999 through December 31, 2000. During the audit period, Respondents reported receiving contributions totaling \$173,316 and making expenditures totaling \$174,717. The FTB

² Effective January 1, 2001, the disclosure requirements of 84211 were incorporated into section 84211, at subdivision (g).

audit found that Respondents received a loan of \$71,000 during the reporting period ending September 30, 2000, from Helmer G. Benson, the candidate's father, to support Respondent Benson's candidacy for the Butte County Superior Court. The loan represented over 40% of the total contributions received by Respondents during the audit period.

COUNT 1

Failing to Deposit a Loan Made to a Candidate into the Campaign Bank Account

As a candidate and a committee treasurer, Respondents Benson and Hancock had a duty to deposit all campaign contributions or loans made to the candidate or to the candidate's controlled committee into one designated campaign bank account. Respondent Benson received a \$71,000 contribution to his campaign, in the form of a loan, from his father Helmer G. Benson. Respondent Benson subsequently deposited the \$71,000 into his personal bank account on or about September 21, 2000.

Respondents drew on these funds, on an as needed basis. During the second pre-election reporting period, Respondent Benson transferred \$60,000 of the funds to the campaign bank account of Respondent Committee, and during the post-election reporting period, he transferred the remaining \$11,000 to the campaign bank account of Respondent Committee.

By failing to deposit the \$71,000 loan received into the campaign bank account of Respondent Committee, Respondents Benson and Hancock violated section 85201, subdivision (c).

During the primary election, Respondents had received a \$24,000 loan for Respondent Benson's election campaign from Respondent Benson's father. Respondents properly deposited those funds into the campaign bank account of Respondent Committee, and properly reported the loan on a campaign statement.

COUNT 2

Failing to Disclose the Receipt, and the True Source, of a Loan

As alleged in Count 1, on or about September 21, 2000, Respondent Benson received a \$71,000 loan from his father, Helmer G. Benson, to support his campaign. As a candidate, a committee, and a committee treasurer, Respondents had a duty to disclose any loan of \$100 or more received by Respondents on a campaign statement for the reporting period in which the contribution was received. As Respondent Benson received the \$71,000 for his campaign during the reporting period ending September 30, 2000, and the funds were accessible for his use, Respondents were required to disclose the receipt of the \$71,000 loan on a campaign statement covering that reporting period. On or about October 5, 2000, Respondents filed a first pre-election campaign statement, disclosing contributions received and expenditures made during the reporting period July 1, 2000 through September 30, 2000. However, Respondents failed to disclose the receipt of the \$71,000 loan from Helmer G. Benson on the first pre-election campaign statement.

By failing to disclose the receipt of receipt of the \$71,000 loan on a first pre-election

campaign statement, Respondents violated sections 84211, subdivision (f), and 84216, subdivision (c).

COUNTS 3-4

Failing to Disclose the True Source of an Outstanding Loan

As a candidate, a controlled committee, and a committee treasurer, Respondents had a duty to disclose required information regarding any loan of \$100 or more received by Respondents on any campaign statement covering a reporting period in which the loan was outstanding. As the \$71,000 loan totaled \$100 or more, and was outstanding during 2000, Respondents were required to disclose that Helmer G. Benson was the source of the loan on all campaign statements covering reporting periods during 2000.

Count 3: On the second pre-election campaign statement, filed on or about October 5, 2000, for the reporting period October 1, 2000 through October 21, 2000, Respondents improperly disclosed Respondent Benson as the source of the loan, and improperly reported the amount of the loan as \$60,000.

Count 4: On the semi-annual campaign statement, filed on or about January 31, 2001, for the reporting period October 22, 2000 through December 31, 2000, Respondents improperly disclosed Respondent Benson as the source of the loan, and improperly reported the amount of the loan as \$21,000.

By failing to disclose the true source of the \$71,000 loan on a second pre-election campaign statement and a semi-annual campaign statement, Respondents violated sections 84211, subdivision (f), and 84216, subdivision (e).

CONCLUSION

Regarding Count 1, the failure to deposit the loan into the campaign bank account led to the failure of Respondents to timely disclose and properly report the contribution. Regarding Count 2, the failure to disclose the loan in a timely manner was significant, as the loan represented over 40% of the total contributions received by Respondents during the audit period, and the election was hotly contested. As such, imposition of the maximum administrative penalty is appropriate for Counts 1 and 2.

Regarding Counts 2 and 3, the failure to disclose the true source of a loan is a serious violation, as it undermines one of the basic purposes of the Act. The public was not informed prior to the November 2000 general election that Respondent Benson's father in large part financed his campaign. In mitigation, however, Respondents were not trying to conceal that Respondent Benson's father was a contributor to the campaign, as he had previously been disclosed as the source of another loan. Additionally, Respondents have no history of enforcement actions being taken against them for violating the Act. As such, imposition of a penalty that is somewhat lower than the maximum is appropriate for these violations.

This matter consists of four counts, which carry a maximum administrative penalty of

Eleven Thousand Dollars (\$11,000). Counts 1 through 3 carry a maximum administrative penalty of Six Thousand Dollars (\$6,000), in that they occurred prior to January 1, 2001, when the maximum administrative penalty was \$2,000 per violation. Count 4 occurred after January 1, 2001, when the maximum administrative penalty was raised to \$5,000 per violation, and therefore carries a maximum administrative penalty of Five Thousand Dollars (\$5,000).

The facts of this case, including the factors discussed above, justify imposition of the agreed upon penalty of Seven Thousand Dollars (\$7,000).